

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

SELECT SPECIALTY HOSPITAL – :
AUGUSTA INC. DBA SSH AUGUSTA, :
Plaintiff, :
: :
v. : CIVIL ACTION NO. CV122-052
: :
KIMBERLY R. SMITH, AS PERSONAL :
REPRESENTATIVE OF THE ESTATE OF :
WARREN CHARLES ROBINSON, SR., :
Defendant. :
:

COMPLAINT FOR BREACH OF CONTRACT

COMES NOW Plaintiff, Select Specialty Hospital - Augusta Inc. dba SSH Augusta (“SSH Augusta”), and makes its complaint against Kimberly R. Smith (“Ms. Smith”), as Personal Representative of the Estate of Warren Charles Robinson, Sr. (“Mr. Robinson”) as follows:

PARTIES

1.

SSH Augusta is a Delaware corporation with its principal place of business located in Pennsylvania. It owns and operates a hospital located in Augusta, Georgia.

2.

Ms. Smith is a citizen of Ohio and resides at 5259 Heroncreek Road, Columbus, Ohio 43213. Ms. Smith is the personal representative of the Estate of Mr. Robinson, duly appointed by the Probate Court of Darlington County, South Carolina, on July 28, 2021, in Case Number: 2021-ES-16-00489. Mr. Robinson was a resident of Darlington County, South Carolina prior to his death.

3.

This is a dispute between citizens of different states, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. This Court has subject matter jurisdiction under 28 U.S.C. §1332. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(2).

FACTS

4.

At all times relevant hereto, Mr. Robinson was an insured under Medicare Parts A and B.

5.

SSH Augusta provided medical treatment, services, and supplies to Mr. Robinson during the period from September 29, 2020, through February 5, 2021.

6.

On September 29, 2020, Mr. Robinson executed a Consent to Admission and Treatment, Authorization to Release Information and Assignment of Insurance Benefits (the "Consent and Assignment"). A true and correct copy of the Consent and Assignment is attached hereto as Exhibit "A", and by this reference made a part hereof.

7.

The Consent and Assignment provided that in the event payment from the patient's insurance companies or benefits plans were insufficient to cover the charges of his treatment at SSH Augusta, he understood that it was his responsibility to pay any outstanding balance on his account. It also provided that if Mr. Robinson did not pay the entire balance within thirty days after the date of the bill, a charge of one percent of the total balance would be added to the account each month until the balance was paid in full. (*See Exhibit A, ¶11*).

8.

SSH Augusta's total charges for the medical treatment, services and supplies rendered Mr. Robinson totaled \$1,692,667.43. Select billed Medicare for the medical treatment, services and supplies provided to Mr. Robinson.

9.

Select's charges for the medical treatment, services and supplies rendered to Mr. Robinson were reasonable, customary, and medically necessary.

10.

During Mr. Robinson's hospitalization at SSH Augusta, he exhausted his Medicare benefits.

11.

After contractual adjustments and application of payments from Medicare, the total sum of \$414,827.34, plus interest, remains due and owing to SSH Augusta for the medical treatment, services and supplies provided to Mr. Robinson. True and correct copies of the service claim forms and Medicare National Standard Remittance Advices reflecting charges, adjustments, payments and patient responsibility are attached hereto as Exhibits "B-1" through "B-6" and by this reference made a part hereof.

BREACH OF CONTRACT

12.

Mr. Robinson entered into a contract with SSH Augusta whereby he agreed to pay for medical treatment, services and supplies provided by SSH Augusta to him.

13.

SSH Augusta fully performed its obligation by providing medical treatment, services, and

supplies to Mr. Robinson.

14.

Defendant has breached the contract with SSH Augusta by failing to pay SSH Augusta for the medical treatment, services and supplies SSH Augusta provided to Mr. Robinson.

15.

By virtue of said breach of contract, SSH Augusta has been damaged in the amount of \$414,827.34, plus interest.

16.

This paragraph of the complaint shall serve as Defendant's notice that SSH Augusta intends to enforce those provisions of the Consent and Assignment which provide for payment of attorneys' fees not to exceed 30% of the total outstanding balance on the account. In accordance with O.C.G.A. § 13-1-11(a)(1), such provision for attorneys' fees is valid and enforceable up to, but not in excess of, 15% of the principal and interest owing. Defendant is notified that the estate has ten (10) days from service of the complaint upon her within which to pay the outstanding balance owing without the attorneys' fees. Should she fail to pay the balance due within said 10-day period, attorney's fees in the sum of \$15% of the outstanding balance will be added to the account and will be collectible from Mr. Robinson's estate in this suit as provided by law.

WHEREFORE, Plaintiff Select Specialty Hospital - Augusta Inc. dba SSH Augusta prays for judgment against defendant Kimberly R. Smith, as Personal Representative of the Estate of Warren Charles Robinson, Sr., in the principal sum of \$414,827.34, together with future interest at the contract rate of 12% per annum, statutory attorney's fees of 15% of the outstanding balance owed on

the account, and all costs of this action.



CATER C. THOMPSON
STATE BAR NO. 129425
Attorney for Plaintiff
Select Specialty Hospital - Augusta Inc. dba SSH
Augusta

OF COUNSEL:

JONES CORK, LLP
435 Second Street
P.O. Box 6437
Macon, Georgia 31208-6437
(478) 745-2821
cater.thompson@jonescork.com